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EXAMINER

BRAHAN, THOMAS J

ART UNIT PAPER NUMBER

3654

DATE MAILED: 01/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/730,402

Applicant(s)

WILLIM, HANS-DIETER

Examiner

Thomas J. Brahan

Art Unit

3654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>16 July 2004</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

Art Unit: 3654

1. The drawings are objected to under 37 C.F.R. § 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the strut swivel axles with oblique positions on the boom of claim 7 must be shown, or the feature must be canceled from the claims. No new matter may be entered.
2. If corrected drawing sheets are submitted to overcome the above objection, they must be in compliance with 37 CFR 1.121(d). An amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended". If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d).
3. If the changes are not accepted by the examiner, as for example including new matter, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.
4. The following is a quotation of the first paragraph of 35 U.S.C. § 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
5. Claims 7 and 19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. It is unclear as to how the invention is considered as having the two strut members as having swivel axles in an oblique position on the boom, as recited in claim 7. Where is this shown in the drawings? Where is the exact manner in which the axles are considered as in an oblique relationship detailed in the specification?
6. The following is a quotation of the second paragraph of 35 U.S.C. § 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which applicant regards as his invention.

Art Unit: 3654

7. Claims 1-20 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document. For example:

a. The last two lines of claim 1 recite that "the boom can bend when raised and be positioned in extended or quasi-extended final erection position. As the grammar is awkward, it is unclear as to whether applicant is attempting to claim a movement to one position or to two positions. It is also unclear as to what would be considered as the extended position as it is not defined within the claim. As the extended position is undefined, it is also unclear as to what could be considered as a "quasi" extended position.

b. In claim 3, it is unclear as to how the applicant is using the term "fold-out support" as the support (26) does not fold.

c. In claims 4, 9 and 10, it is unclear as to how an auxiliary coil or an auxiliary guy can be recited within the claims. The term "auxiliary" is defined as a drawn to a secondary or a supplemental device, as to be indirectly claiming a first coil and a first guy.

d. In claim 5, the terms "the tip" and "the strut" lack antecedent basis within the claims.

e. In claim 7, it is unclear as to how the applicant is considering the strut swivel axles as in an oblique relationship to the main boom, as no such relationship is evident from the drawings. Note also that claim 6 requires the struts to be parallel to each other as to complicate the nature of the oblique relationship.

f. In claim 7, the term "the swivel axles" lacks antecedent basis within the claims.

g. In claims 8, 18 and 19, the terms "the adjustment strap", "the adjustment coil" and "the bent forward segment" lack antecedent basis within the claims.

h. In claims 11-13, the term "the tip" lacks antecedent basis within the claims.

8. As the structures recited in claim 7 are not understood, claims 7 and 19 have not been treated below with rejections based upon prior art.

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-4 and 9, as best understood, are rejected under 35 U.S.C. § 102(b) as being anticipated by Tesch. Tesch shows a mobile crane with a long main boom, wherein

the main boom is in two parts (15 and 17) linked at a swivel point (23) in such manner that the

Art Unit: 3654

boom can bend when raised and be positioned in an extended final erection position.

A strut member (42) is positioned to swivel on a joint (51), as recited in claim 2. The strut has a fold-out support (support leg 45; see figure 4), as recited in claim 3, as best understood. Cable 33 or cable 35 can be considered as auxiliary guys, as broadly recited in claims 4 and 9.

11. Claims 1-6, 8-18 and 20, as best understood, are rejected under 35 U.S.C. § 102(b) as being anticipated by Mott. Mott shows a mobile crane with a long main boom, wherein

the main boom is in two parts (26 and 28) linked at a swivel point (at 34) in such manner that the boom can bend when raised and be positioned in an extended final erection position.

Mott has strut members (brackets 40 on boom half 26 can be considered as struts, alternatively the chord elements of jib boom 16 can be considered as struts) positioned to swivel on joints (brackets 40 swivel at brackets 34 as they swivel with the boom half 26; the struts formed on jib boom 16 swivel at brackets 52), as recited in claim 2. A fold-out support (38) is coupled to the strut, as recited in claim 3. Mott has a cable (84) that can be considered as an auxiliary guy with a "coil" or winch, as it is used as one of the two guys during unfolding the boom, as recited in claims 4, 9 and 10. Mott has a cable (80) that can be considered as an adjustment strap with a "coil" or winch, the strap being fastened to a portion of an element of jib boom 16 which can be considered as a tip via a hook (82) during the raising of the forward half of the boom, see column 2, lines 63-67, as recited in claims 5, 8, 11-13, 18 and 20. There are parallel strut members (the two brackets 40 on boom half 26 or the various parallel chords of jib boom 16), as recited in claims 6 and 14-17.


12. Claims 1-6, 8-12, 14-18 and 20, as best understood, are rejected under 35 U.S.C. § 102(b) as being anticipated by Sterner. Sterner shows a mobile crane with a long main boom in two parts (21 and 23) linked at a swivel point (at 28) in such manner that the boom can bend when raised and be positioned in an extended final erection position. It has strut members (31-33) positioned to swivel on joints, as recited in claim 2. A fold-out support (43) is coupled to the struts, as recited in claim 3. Sterner has a cable (53') that can be considered as an auxiliary guy with a "coil" or winch, as recited in claims 4, 9 and 10. The cable (53') can also be considered as the adjustment strap fastened to the tip of strut (33) via a hook (52), as recited in claims 5, 8, 11, 12 and 20, as these claims do not depend from claim 4. There are parallel strut members, see figures 6 and 6A, as recited in claims 6 and 14-18.

13. Heeden et al, Bender, Kennard et al, Privat and Bertinotti are cited as showing cranes with related guying or strut features.

14. An inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Braham whose telephone number is (571) 272-6921. The examiner's supervisor,

Art Unit: 3654

Ms. Katherine Matecki, can be reached at (571) 272-6951. The new fax number for all patent applications is (571) 273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Questions regarding access to the Private PAIR system, should be directed to the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 12/1/05  
Thomas J. Brahan  
Primary Examiner  
Art Unit 36544